

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



January 2, 2003

Regulation Package #0802-19

CDSS MANUAL LETTER NO. FS-02-04

TO: HOLDERS OF THE FOOD STAMP MANUAL, DIVISION 63

Regulation Package #0802-19**Effective 10/01/02****Sections 63-403.1, 63-405.134, 63-409.122, and 63-502.31**

This manual letter has been posted on the Office of Regulations Development website at http://www.dss.cahwnet.gov/ord/FoodStamps_618.htm.

These regulations restored Food Stamp Program eligibility to certain disabled noncitizens and increased the resource limit for households with a disabled member from \$2,000 to \$3,000. These amendments also restructure the Standard Deduction from one amount for all households to 8.31 percent of the net income limit, which varies based on household size.

These regulations were adopted on an emergency basis effective October 1, 2002 and were considered at the Department's public hearing held on November 19, 2002.

FILING INSTRUCTIONS

Revisions to all manuals are shown in graphic screen. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Food Stamp Manual changes was FS-02-03.

Page(s)

167 and 168
174 and 174.1a
174.7 and 175
206 and 207
245 and 246
262.1 and 262.2

Replace(s)

Pages 167 and 168
Pages 174 and 174.1a
Pages 174.7 and 175
Pages 206 and 207
Pages 245 and 246
Pages 262.1 and 262.2

Attachments

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63-402	HOUSEHOLD CONCEPT (Continued)	63-402
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- .82 Households with striking members shall be ineligible to participate in the Food Stamp Program unless the household was eligible one day prior to involvement in the strike action and on the date of application. The CWD shall perform two separate eligibility determinations.
- .821 To determine pre-strike eligibility, consider the day prior to the member's involvement in the strike as the day of interview and assume the strike did not occur.
- .822 To determine eligibility, compare the striking member's income before the strike to the striker's income which can be anticipated with reasonable certainty during the strike, (e.g., income from the receipt of strike benefits or temporary employment during the strike). The higher of the two amounts shall be added to the income of nonstriking members during the month of application.
- .823 To determine benefits, deductions shall be calculated for the month of application as for any household. Whether the striker's prestrike income or income during the strike is used, the earned income deduction shall be allowed if applicable. Benefit level of an eligible striker household is based on current circumstance except for income as specified above.
- .83 CWDs shall use the method as specified in Section 63-402.82 in determining benefits and eligibility for continuing households when a member becomes involved in a strike. Such a household shall not receive an increased allotment as the result of a decrease in the income of the striking member(s) of the household.
- .84 The household's income immediately prior to the involvement in the strike action at the date of application shall be verified at the time of application. Any anticipated income during the strike shall also be accounted for at this time. It is the responsibility of the household to provide the CWD with verification of such income for the purpose of determining eligibility and benefit levels in accordance with Section 63-300.5.
- .85 Strikers shall be subject to the work registration requirements unless exempt under Section 63-407.2.

NOTE: Authority cited: Sections 10554 and 18904, Welfare and Institutions Code. Reference: Sections 10554, 11251.3, 11486.5, and 18904, Welfare and Institutions Code; 7 Code of Federal Regulations (CFR) 273.1(a)(1) through (a)(2)(ii) through (b)(2)(iii), (c), (c)(1), (c)(6), 7 CFR 273.1(d)(1) and (2), (e)(1), and (g); 7 CFR 273.2(j)(4); 7 CFR 273.9(b)(2)(ii); 7 CFR 273.10(c)(1)(i); 7 CFR 273.11, .11(b)(1) and (f); 7 CFR 274.5 and 7 CFR 274.10; Public Law (P.L.) 100-77, Section 802; P.L. 103-66; USDA Food and Nutrition Service (FNS), Administrative Notice (AN) 89-65; AN 94-39; AN 98-43; USDA FNS Policy Memo 89-11 and 89-12; 7 U.S.C. 2015(d)(1), P.L. 104-193, Sections 115, 803, 815, and 821 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996); and the Balanced Budget Act of 1977 (Sections 5516 and 5518).

63-403	CALIFORNIA FOOD ASSISTANCE PROGRAM (CFAP)	63-403
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.1 Noncitizen Eligibility

Certain legal noncitizens of the United States (U.S.) shall be eligible for CFAP if they are not eligible for federal Food Stamp (FS) benefits, based solely on their immigration status under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 as amended by the Food Stamp Reauthorization Act of 2002. Legal presence can be verified through INS at application [i.e. Systematic Alien Verification for Entitlements (SAVE) System]. Legal noncitizens whose time limit has expired for the federal program but would otherwise remain eligible for federal benefits are eligible for CFAP.

.2 Application of Existing Regulations

Current federal FSP regulations contained in the State FSP Manual (Division 63 of the CDSS Manual of Policies and Procedures) will apply to the CFAP and its participants unless otherwise stated. For CFAP recipients who do not meet exemptions from deeming, the period for deeming of a sponsor's income and resources shall be three years from the date of the sponsor's execution of the 213a affidavit of support. Victims of abuse by their sponsor or sponsor's spouse shall be exempt from deeming.

.3 CFAP work requirements are provided in Section 63-411.

.4 Combined Households

For CFAP purposes, combined households are those which contain participants of the federal FSP and CFAP. No household shall receive more food stamp benefits under CFAP than it would have received if all members had remained eligible for the federal FSP.

NOTE: Authority cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code. Reference: Sections 11320.3, 11495.12, 18930 through 18934, Welfare and Institutions Code (as amended by AB 1111, Chapter 147, Statutes of 1999 and AB 429, Chapter 111, Statutes of 2001); 7 CFR 273.4; Federal Register, Vol. 61, No. 202, dated 10/17/96; Federal Register, Vol. 52, No. 103, dated May 29, 1987; USDA, Food and Consumer Service, Administrative Notice 97-105, dated August 21, 1997; and Section 4401(a) of the Food Stamp Reauthorization Act of 2002, P.L. 170-171 [8USC 1612(a) and 8USC 1613(c)].

63-405	CITIZENSHIP OR ELIGIBLE NONCITIZEN STATUS (Continued)	63-405
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- .132 An active member of the U.S. armed forces or an honorably discharged veteran of the U.S. armed forces, including their spouse or unmarried dependent child, or un-remarried surviving spouse of a deceased veteran, as specified in Section 63-405.3.
 - .133 Was lawfully residing in the U.S. on August 22, 1996 and is under 18 years of age at application and remains eligible until 18 years of age.
 - .134 Who is disabled or blind as specified in Section 63-102(e)(1)(B) through (K), regardless of date of entry. Must show verification of disability benefits.
 - .135 Was lawfully in the U.S. and 65 years or older on August 22, 1996.
- .2 The following noncitizens are eligible for food stamp benefits for an indefinite period of time, even if they are not qualified noncitizens as specified in Section 63-405.11.
- .21 An individual who:
- .211 Was a member of a Hmong or Highland Laotian tribe at the time that the tribe rendered assistance to U.S. personnel by taking part in a military or rescue operation during the Vietnam era (as defined in 38 U.S.C. 101) and is lawfully residing in the U.S..

HANDBOOK BEGINS HERE

Documentary evidence of Hmong or Highland Loatian tribe member includes:

- (a) Was born in Laos [or another country with Hmong or other Highland Loatian populations and can give a reasonable explanation as to why he/she was not born in Laos (the countries include Thailand, Cambodia, China, Vietnam, Philippines, Indonesia, Hong Kong, Malaysia, and Singapore)];
- (b) Has a refugee code RE1, RE2, RE3, RE6, RE7, R86, IC6, or IC7, or can give a reasonable explanation of his/her immigration to the U.S. (for example, sought asylum in another country and later immigrated to the U.S.);
- (c) Entered the U.S. in April 1975 or later (or can give a reasonable explanation for having entered before that, such as came here as a student, for military training, to escape the war, and so on);

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HANDBOOK CONTINUES

- (d) Signs an affidavit swearing under penalty of law that he/she was a member of a Hmong or Highland Loatian tribe between August 5, 1964 and May 7, 1975. [If a food stamp worker has access to the Refugee Data Center (RDC) list of eligible Hmong and Highland Loatian refugees who entered the U.S. after 1979, and the name or alien number of the person claiming membership in a tribal group appears on the list, there is no need for the affidavit. However, the worker must not deny eligibility for food stamps simply because the RDC list is unavailable or the applicant's name or alien number does not appear on it.]; and
- (e) Presents other information/documentation establishing that the tribal member was part of a Hmong/Highland Loatian Tribe between August 5, 1964 and May 7, 1975.

HANDBOOK ENDS HERE

- .212 Is the spouse, unmarried dependent child or unremarried surviving widow or widower of a deceased Hmong or Highland Loatian tribal member and verifies his/her status as a member of the tribal member's family.

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- (a) Divorced spouses do not qualify as family members.
- (b) A member of the family of a deceased tribal member need not show that the deceased tribal member legally resided in the U.S..
- (c) A child means the legally adopted or biological child of the Hmong or Highland Laotian described in Section 64-405.211.
- (d) An unmarried dependent child of a Hmong or Highland Laotian described in Section 63-405.21, is under the age of 18, or a full-time student under the age of 22, an unmarried child under the age of 18 or if a full-time student under the age of 22 of a deceased Hmong or Highland Laotian provided the child was dependent upon him or her at the time of his/her death, or an unmarried disabled child age 18 or older if the child was disabled and dependent on the person prior to the child's 18th birthday.

HANDBOOK ENDS HERE

63-405 CITIZENSHIP OR ELIGIBLE NONCITIZEN STATUS
(Continued)

63-405

.8 Reporting of Illegal Noncitizens

The CWD shall immediately inform the local INS office whenever personnel responsible for the certification or recertification of households discovers that an applicant or a household member is under an order of deportation. For purposes of this section, the term household member shall mean a person whose name appears on the application or other documents and who would have been a food stamp household member except for his/her noncitizen status. When any household member indicates inability or unwillingness to provide documentation of noncitizen status for any household member, that member shall be classified as an ineligible noncitizen. In such cases the CWD shall not continue efforts to obtain such documentation. The ineligible noncitizen's income and resources shall be available to the household as specified in Section 63-503.44. CWD disclosure to INS shall be deemed to be within the administration of the FSP as described in Section 63-201.3.

.81 For reporting purposes, reliable sources of information regarding orders of deportation shall be limited to:

.811 The noncitizen's or other household member's admission.

.812 Food stamp documents, as used in the application or reporting process; or,

.813 Presentation of INS documents showing that the noncitizen is under an order of deportation.

NOTE: Authority cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code. Reference: Sections 10554 and 18904, Welfare and Institutions Code; 7 Code of Federal Regulations (CFR) 273.2(f)(1)(ii)(B)(2), (j)(3) and (4); 7 CFR 273.4(a)(2), (a)(4)(ii) and (iii), (a)(5)(ii)(2)(B) and (2)(G)(1), (C), (E), (F) and (G)(1), (a)(8), and (c)(2)(i); 7 CFR 273.10(b); 7 CFR 273.6; 7 CFR 273.11; U.S.D.A. Food and Nutrition Service Administrative Notice (AN) 92-30; Federal Register, Vol. 56, No. 233, page 63594; Federal Register, Vol. 62, No. 202, dated October 20, 1997; Public Law (P.L.) 100-202 and 100-461, P.L. 104-193, Section 402 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996); P.L. 105-185, Title V, Sections 503 through 510; AN 96-47; AN 96-48 (Part A, page 6); AN 96-55; AN 97-02; AN 97-13; AN 97-44; AN 97-82; AN 97-103; AN 97-107; AN 98-13; AN 98-21; AN 98-28; AN 98-30; AN 98-79; AN 98-93; AN 99-01; AN 99-24; and Section 4401, Food Stamp Reauthorization Act of 2002, P.L. 170-171 [8USC 1612(a) and 8USC 1613(c)].

63-406 STUDENTS**63-406****.1 Applicability.**

- .11 Any person who is age 18 through 49; physically and mentally fit for employment; and enrolled at least half-time, as defined by the institution, in an institution of higher education (as defined in Section 63-406.111(a)), shall be ineligible to participate in the Food Stamp Program unless that person complies with the eligibility requirements as specified in Section 63-406.2.

- .111 To be considered a student at an institution of higher education, a person specified in Section 63-406.111(a)(1) needs only to be enrolled at least half-time; whereas a person specified in Section 63-406.111(a)(2) needs to be both enrolled at least half-time and enrolled in a regular curriculum. A regular curriculum at an institution of higher education means the standard requirements for graduation or certification/qualification in a particular field of study.

(a) An institution of higher education \equiv refers to:

- (1) A business, trade, technical or vocational school at the post-high school level that normally requires a high school diploma or equivalency certificate for enrollment; or
 - (2) A junior, community, two-year or four-year college or university, or graduate school, regardless of whether a high school diploma or equivalency certificate is required.
 - (A) If a college normally requires a high school diploma or equivalency certificate, but does not require either of these for a particular program or course, enrollment in such a program or course does not constitute enrollment in an institution of higher education.
- .12 Student eligibility requirements shall not apply to persons age 17 or under, persons age 50 or over, persons physically or mentally unfit for employment, persons attending high school, persons participating strictly in the job training portion of on-the-job-training programs as opposed to the class attendance portion, persons enrolled in an institution of higher education as specified in Section 63-406.111(a)(1) less than half-time, persons enrolled in a regular curriculum in an institution of higher education as specified in Sections 63-406.111 and 63-406.111(a)(2) less than half-time, or to persons enrolled full-time in schools and training programs which are not institutions of higher education.
- .121 If mental or physical unfitness for employment is claimed and the unfitness is not evident to the CWD, verification shall be required. Appropriate verification may consist of receipt of temporary or permanent disability benefits issued by governmental or private sources, or a statement from a physician or licensed or certified psychologist.

63-408 VOLUNTARY QUIT (Continued)**63-408****.6 Ending a Voluntary Quit Disqualification**

- .61 Following the end of the minimum disqualification period identified in Section 63-407.531, .532, or .533, a registrant may begin participating in the Program after reapplying and being determined eligible if the individual;
 - .611 Secures new employment which is comparable in salary or hours to the job which was quit. This may entail fewer hours or a lower net salary than the job that was quit, so long as either the hours worked or the wages paid are at least the same, or
 - .612 Qualifies for one of the work registration exemptions listed at Section 63-407.21, other than the exemptions specified in Section 63-407.21(c), (e), or (g).
 - (a) This provision applies at any time during the period of disqualification.
- .62 An individual subject to the requirements of Section 63-410 who is also disqualified for failing to comply with the requirements of that section, may not regain eligibility until the conditions of Section 63-410 are met.

NOTE: Authority cited: Sections 10554 and 18904, Welfare and Institutions Code. Reference: Sections 10554 and 18904, Welfare and Institutions Code; California Code of Regulations, Title 22, Division 12, Chapter 1 commencing with Section 101151, Chapter 2 commencing with Section 101251, and Chapter 3 commencing with Section 102351.1; 7 U.S.C. 2015(d)(1) and (o), Public Law 104-193, Sections 815 and 824 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996); U.S.D.A. Food and Consumer Service Administrative Notices 97-22 and 97-65; and 7 CFR 273.7(n).

63-409 INCOME AND RESOURCE MAXIMUMS**63-409****.1 Requirements for Participation**

Except for categorically eligible households, as specified in Sections 63-301.6, .7, and .82, only those households with income and resources which do not exceed the maximum income and resource eligibility standards shall be eligible to participate in the Food Stamp Program. The maximum income and resource eligibility standards are promulgated and updated by the USDA, and contained in tables reproduced in Handbook Section 63-1101.

.11 Maximum Income Eligibility Standards

CWDs shall implement the updated maximum income eligibility standards upon their effective date(s). Refer to Handbook Section 63-1101 for the most recent maximum eligibility income standards and their effective date(s).

63-409	INCOME AND RESOURCE MAXIMUMS (Continued)	63-409
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.111 Maximum Gross Income and Net Income Eligibility Standards

The CWD shall determine the eligibility of all households, except as specified in Sections 63-409.112, and 63-301.7, based first on the maximum gross income. If the household is not eligible under this test the application shall be denied. If the household is gross income eligible then the net income eligibility standards reproduced in Handbook Section 63-1101 shall be applied and appropriate denial or approval shall be made. These eligibility determinations shall be made in accordance with Section 63-503.321.

.112 Maximum Net Income Eligibility Standards

The CWD shall determine the eligibility of households with a member who is elderly or disabled [as define in Section 63-102(e)] based on the maximum net income eligibility standards reproduced in Handbook Section 63-1101. These standards shall apply if a household contains a member who is 59 years old on the date of application but who will become 60 before the end of the month of application. This eligibility determination shall be made in accordance with Sections 63-503.322 or .323, as appropriate.

.12 Maximum Resource Eligibility Standards

Except for categorically eligible households, the CWD shall deny participation in the Food Stamp Program to any household whose nonexempt resources determined in accordance with Section 63-501, exceed the appropriate maximum resource eligibility standards specified in federal regulations 7 CFR 273.8(b), and reproduced in Handbook Sections 63-1101.11 and .12.

.121 For all households, except as provided in Section 63-409.122, the resource limit shall be the amount specified in Handbook Section 63-1101.12.

.122 For any household which includes at least one elderly or disabled member, the resource limit shall be the amount specified in Handbook Section 63-1101.11.

NOTE: Authority cited: Sections 10554 and 18904, Welfare and Institutions Code. Reference: 7 CFR 273.2(j)(4); and Section 4107, Food Stamp Reauthorization Act of 2002, P.L. 170-171 [7USC 2014(g)].

63-502	INCOME, EXCLUSIONS AND DEDUCTIONS (Continued)	63-502
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- (l) Income that is specifically excluded for Food Stamp purposes by any other federal statute as specified in Section 63-507.
- (m) Repealed by Manual Letter No. FS-91-06, effective 8/1/91.
- (n) Any payment made to an FSET Program participant, as specified in Section 63-407.83, for costs that are reasonably necessary and directly related to participation in the FSET Program.
 - (1) These costs include, but are not limited to:
 - (A) Dependent care costs, including the value of any dependent care service provided or arranged by the CWD;
 - (B) Transportation; and
 - (C) Other expenses related to work, training or education, such as uniforms, personal safety items or other necessary equipment and books or training manuals.
 - (2) These costs shall not include the cost of meals away from home.
- (o) Foster care payments received by households with foster care boarders who are not part of the food stamp household.

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued)**63-502****.3 Income Deductions**

The CWDs shall allow the income deductions contained in this section when determining the Food Stamp household's net income eligibility and benefit level. The standard deduction, excess medical deduction, homeless standard shelter allowance, and the excess shelter deduction are: promulgated and updated by the USDA; published, as specified in 7 CFR 273.9(d)(1), (3), and (5); and to be implemented upon their effective date. The amounts for the earned income deduction and the dependent care deduction for nonelderly households are determined by federal law and published by the USDA in 7 CFR 273.9(d)(2) and (4), respectively. The current amounts are reproduced in Handbook Section 63-1101. Deductions shall be allowed only for the following:

.31 Standard Deduction

.311 A standard deduction is allowed for each household per month in an amount that is:

- (a) Equal to 8.31 percent of the income standard of eligibility established under MPP Section 63-409.1; but
 - (1) not more than 8.31 percent of the income standard of eligibility established under MPP Section 63-409.1 for a household of six members.
- (b) The standard deduction for each household shall not be less than \$134.

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued)**63-502**

.386 Amounts paid toward arrearages shall be deductible.

NOTE: Authority cited: Sections 10553, 10554, 11209, 18900, 18901 and 18904, Welfare and Institutions Code. Reference: Sections 10554, 18901, and 18904, Welfare and Institutions Code; Public Law (P.L.) 99-603, Section 201(a), Section 245A(h)(1)(A)(iii), Immigration Reform and Control Act; 100-50, Sections 22(e)(4) and 14(27), enacted June 3, 1987; P.L. 100-77; P.L. 101-201; P.L. 101-508, Section 11111(b); P.L. 103-66, Section 5(c), (d) and (e) and Section 8(a); 7 Code of Federal Regulations (CFR) 271.2; 7 CFR 273.1(c)(6); 7 CFR 273.4(a) and (c)(2); 7 CFR 273.7(f); 7 CFR 273.9; 7 CFR 273.9(b)(1), (b)(1)(v), (c), (c)(1)(i)(E), and (c)(1)(ii); (c)(1)(ii)(G), (c)(8), (c)(11)(i) and (ii), (d), (d)(6), and proposed (d)(7) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994, 7 CFR 273.10(d)(1)(i) and (e)(1)(i)(H); 7 CFR 273.11(b)(1); 7 CFR 273.11(c), (d) and (d)(1) and (e); 7 CFR 273.21(j)(1)(vii)(A); 7 United States Code (U.S.C.) 2014(c), (d), (e), (k)(1)(B), and (k)(2)(F); 7 U.S.C. 2015(e); 7 U.S.C. 2017(a); 20 U.S.C. 2466d.; 26 U.S.C. 32(j)(5); P.L. 104-193, Sections 807, 808, 809, 811, and 829 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996); (Court Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal Feb. 1, 1990) [Dock. No. CV-89-0768].); United States Department of Agriculture (U.S.D.A.) Food and Consumer Services (FCS) Administrative Notice (AN) 88-40, Indexed Policy Memo 88-10, dated April 20, 1988; U.S.D.A., FNS ANs 91-24, 91-30, 94-39, 94-41, dated April 19, 1994; the July 8, 1988 district court order in Hamilton v. Lyng; and Section 4103, Food Stamp Reauthorization Act of 2002, P.L. 170-171 [7USC 2014(d) and (e)].

63-503	DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT LEVELS	63-503
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.1 Month of Application

- .11 A household's eligibility shall be determined for the month of application by considering the household's circumstances as of the date of interview, except as specified in Sections 63-402.9 (Strikers), 63-408 (Voluntary Quit), 63-501.6 (Resource Transfers), 63-503.212 (Income Determinations), and 63-503.43 (Destitute Households), and 63-301.7 and .82 (Categorically Eligible Households).
- .12 A calendar month shall be used for certification and issuance purposes. However, a CWD may, with prior SDSS and FNS approval, use a fiscal month if the CWD determines that it is more efficient and satisfies SDSS that the accounting procedures fully comply with certification and issuance requirements contained in these regulations. A CWD may elect to use either one fiscal month for all households, or more than one fiscal month with varying beginning dates based on the date a household files an application.
- .13 A household's benefit level for a) the initial month of certification, or b) the first month for which the household is certified for participation in the Food Stamp Program following any period during which the household was not certified for participation, shall be prorated from the date the application is received in the appropriate office. However, if processing of the application was delayed beyond 30 days due to the fault of the household, the benefit level shall be prorated from the date the CWD received verification that the household completed the required action, as specified in Section 63-301.423. Migrant and seasonal farm worker households which have a break in participation of 30 days or less shall not have their benefits prorated. They shall receive benefits for the whole month.
- .131 Using a calendar or fiscal month, households shall receive benefits prorated from the date of application to the end of the month, except as specified in Section 63-503.13. The CWDs shall either:
 - (a) Refer to Handbook Section 63-1101 for Reciprocal Table for computing first month benefits, or
 - (b) Use the following formula:

$$\begin{array}{rclcl}
 & & (\text{number of days in month} + 1) & & \\
 \text{full month's} & & - \text{date of application)} & & \\
 \text{benefits} & \times & \text{number of days in month} & = & \text{allotment}
 \end{array}$$